

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAYME GORDON,

Plaintiff,

v.

DREAMWORKS ANIMATION SKG, INC.,
et. al.,

Defendants.

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Civil Action No. 11-10255-JLT

ORDER

April 17, 2012

TAURO, J.

After considering Defendants' Motion to Compel [#59], Defendants' Motion for Further Discovery [#63], and Plaintiff's Motion to Compel [#70], and conducting a Hearing on April 17, 2012, the court hereby orders that:

1. Defendants' Motion to Compel [#59] is ALLOWED IN PART and DENIED IN PART as follows:
 - a. Plaintiff will produce all of his computers, memory storage devices, and email accounts for forensic imaging and analysis in accordance with the protocol set forth in Schedule A (attached hereto). Plaintiff will submit an affidavit to the court indicating that he has submitted all of the above-mentioned materials in accordance with the court's order by no later than April 23, 2012.
 - b. Following the disclosure of Plaintiff's electronic files, Plaintiff will sit for a

third day of deposition at the office of Defense counsel in Boston, Massachusetts at a date mutually agreed upon by the parties, but no later than May 17, 2012. This deposition will be limited to one day, and to the following topics: Mr. Partello emails; the two copyright registrations disclosed after Plaintiff's prior deposition; and the documents disclosed by Plaintiff's prior counsel.

- c. Defendants' request for imaging Mr. Partello's computers, memory devices, and email accounts is DENIED WITHOUT PREJUDICE, as it is likely to be unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. This denial is subject to reconsideration should Defendants submit proof that Mr. Partello is in the possession of relevant evidence.
- d. Plaintiff will make available all of the original sketches and artwork produced by Plaintiff in this action for forensic examination and testing by William J. Flynn in accordance with the procedure for examination described in Mr. Flynn's Affidavit [#62]. Plaintiff will produce these materials for examination no later than April 30, 2012. Plaintiff may elect to have a records custodian accompany the documents when they are taken for testing.

- 2. Defendants' Motion for Further Discovery [#63] is ALLOWED.

3. Plaintiff's Motion to Compel [#70] is DENIED IN PART as follows:
 - a. It is DENIED as to the documents included in Defendants' March 2011 PowerPoint presentation. These documents were produced as part of settlement negotiations, and their production is not likely to lead to the discovery of admissible evidence. With respect to the "letter" included in the presentation, it is the court's understanding that the parties agree that this "letter" included in the presentation was, in fact, a template of what Defendants' believed the letter that their records indicate they sent to Plaintiff may have looked like. The court is also of the understanding that the templates used by Defendant to produce this "letter" have been disclosed to Plaintiff. The parties will submit notice to the court by May 3, 2012 either agreeing or disagreeing with this statement of the facts.
 - b. It is DENIED WITHOUT PREJUDICE in all other respects, as Plaintiff has failed to show why such production is necessary, and why the financial summaries that have thus-far been produced are inadequate to meet Plaintiff's burden regarding proof of damages. Plaintiff may re-raise this request upon a showing why the financial summaries are inadequate.
 - c. To this effect, Plaintiff may conduct a Rule 30(b)(6) deposition of Defendants. This deposition must be conducted no later than May 31, 2012.
4. With the above-mentioned exceptions, the remainder of this court's Scheduling Order [#32] of August 17, 2011, REMAINS IN EFFECT.

5. A Pretrial Conference is scheduled for June 6, 2012 at 2:30 p.m.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
United States District Judge